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W.P.No.26459 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.26459 of 2022

K.Sulochana

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Social Welfare and Noon Meals Department,
Chennai - 600 009.

2.The Commissioner,
Social Welfare Department,
Chepauk,
Chennai - 600 005.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to regularize the service of petitioner as a Supervisor retrospectively for the purpose of getting enhanced pension and in the light of Hon'ble Supreme Court Judgment delivered in C.A.No.6789 of 2019 dated 02.09.2019 and Order in W.P.No.19023 of 2021 dated 09.09.2021 and G.O.Ms.No.15, Social Welfare and Nutritious Meals Programme Department dated 19.01.2013 and G.O.No.46, Social Welfare and Nutritious Department dated 15.04.2013 and further direction directing the



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respondents to regularize the service of the petitioner after completion of ten years from date of initial appointment instead of prospective regularization like similarly placed persons.

For Petitioner : Mr.S.Mani

For Respondents : Mr.S.Arumugam
Government Advocate

ORDER

This Writ Petition has been filed for a mandamus seeking for a direction to the respondents to notionally regularize the service of the petitioner as a Supervisor retrospectively for the purpose of getting enhanced pension.

2. The petitioner claims that she has rendered thirty three years of service since 1982. According to the petitioner, she has not got pensionary benefits since her regularization was made only after 01.04.2003. According to the petitioner, similarly placed persons were regularized from the date of completion of their ten years of service and were able to get pension. In such circumstances, the petitioner has given a representation on 10.03.2022 to the respondents to notionally regularize the service of the petitioner from the date of her initial appointment as Supervisor on daily



wage basis for the purpose of getting pension. Since the representation was not considered, the petitioner has filed this Writ Petition.

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3. Heard Mr.S.Mani, learned counsel for the petitioner and Mr.S.Arumugam, learned Government Advocate for the respondents.

4. Learned Government Advocate appearing for the respondents would submit that the petitioner is not eligible to get pension in view of the fact that prior to 01.04.2003 she was only a daily wage earner and only in the year 2013 she was regularized in service. She is eligible for payment of pension only under the New Pension Scheme introduced subsequent to 01.04.2003. However, the same is disputed by the learned counsel for the petitioner.

5. No prejudice would be caused to the respondents if the petitioner's representation is considered on merits and in accordance with law within a time frame to be fixed by this Court.



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6. The petitioner also relies upon G.O.Ms.No.15, Social Welfare and Nutritious Meals Programme Department dated 19.01.2013 and G.O.No.46, Social Welfare and Nutritious Department dated 15.04.2013 to substantiate her claim for pension. It is for the respondents to consider the same on merits and in accordance with law and decide as to whether the said G.Os are applicable to the case of the petitioner or not.

7. Since no acknowledgment card has been produced for the earlier representation submitted by the petitioner, she will have to give a fresh representation to the respondents. Learned counsel for the petitioner on instructions would submit that the petitioner is willing to give a fresh representation.

8. For the foregoing reasons, this Court directs the petitioner to submit a fresh representation to the first respondent requesting for notionally regularizing her service as Supervisor immediately after the completion of her ten years of service and grant pension to her on the date of the notional regularization within a period of one week from the date of receipt of a copy of this order. On receipt of the said representation, the first



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respondent shall pass final orders on merits and in accordance with law within a period of twelve weeks thereafter. While passing the final order, the first respondent shall take into consideration G.O.Ms.No.15, Social Welfare and Nutritious Meals Programme Department dated 19.01.2013 and G.O.No.46, Social Welfare and Nutritious Department dated 15.04.2013 and the Judgment of the Hon'ble Supreme Court dated 02.09.2019 passed in C.A.No.6789 of 2019 which according to the petitioner is applicable for her case.

9. With the aforesaid directions, this Writ Petition is disposed of. No Costs.

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Index : Yes/No
Speaking Order : Yes / No
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To

1.The State of Tamilnadu,
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2.The Commissioner,
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ABDUL QUDDHOSE. J.,

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